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## FAX COVER SHEET

From: Michael C. Cesarano

Date: February 8, 2005

PLEASE DELIVER 9 PAGE(S) (including cover sheet) TO:

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## Comments/Special Instructions

PETITION FOR REVIVAL (Mail Stop Petition)

Re: Application No. 10/022313

## Enclosures:

1. Transmittal form (1pg.)
2. Petition for Revival under 37 CFR 1.137(b) (2 pgs.)
3. Fee Transmittal (1 pg.)
4. Statement Establishing Unintentional Delay (2 pgs.)
5. Request for Continued Examination (with duplicate - 2 pgs.)

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Client/Matter No: 31856/162321Equitrac ID: 8146

PTO/SB/21 (09-04)

Approved for use through 07/31/2006 OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/022313	
	Filing Date	December 17, 2001	
	First Named Inventor	Neto, Aziz Rassi	
	Art Unit	3731	
	Examiner Name	Davis, Daniel J.	
Total Number of Pages in This Submission	8	Attorney Docket Number	162321

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition for Revival <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below) <b>Request for Continued Examination</b> <b>Explanation for abandonment</b>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Akerman Senterfitt		
Signature	<i>Michael C. Cesarano</i>		
Printed name	Michael C. Cesarano		
Date	February 8, 2005	Reg. No.	31,817

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. This correspondence is being transmitted by telex, U.S. Patent and Trademark Office 703-872-9306.		
Signature	<i>Michael C. Cesarano</i>	
Typed or printed name	Michael C. Cesarano	Date February 8, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to fee (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

FEB 08 2005

PTO/SB/64 (09-04)

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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>	<b>Docket Number (Optional)</b> 162321
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First named inventor: Neto, Aziz Rassi

Application No.: 10/022313

Art Unit: 3731

Filed: December 17, 2001

Examiner: Davis, Daniel J.

Title: Surgical screw for recomposition of human bone structures

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

# APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

## 1. Petition fee

☒ Small entity-fee \$ 665 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

## 2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Request for Continued Examination (RCE) (identify type of reply):

☐ has been filed previously on \_\_\_\_\_  
☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_

☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public when it is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/64 (09-04)

Approved for use through 07/31/2008. OMB 0851-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Michael C. Cesarano  
Signature

February 8, 2005  
Date

Michael C. Cesarano  
Typed or printed name

31,817  
Registration Number, if applicable

1 S.E. 3rd Avenue, 28th Floor  
Address

305-374-5600  
Telephone Number

Miami, Florida 33131-1714  
Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Request for Continued Examination (RCE)

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

February 8, 2005  
Date

Michael C. Cesarano  
Signature

Michael C. Cesarano  
Typed or printed name of person signing certificate

(Page 2 of 2)

PTO/SB/17 (12-04v2)

Approved for use through 07/31/2008. OMB 0651-0032

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL**  
**For FY 2005**☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

685

**Complete if Known**

Application Number 10/022313

Filing Date December 17, 2001

First Named Inventor Neto, Aziz Rassi

Examiner Name Davis, Daniel J.

Art Unit 3731

Attorney Docket No. 162321

**METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):☒ Deposit Account Deposit Account Number 500951 Deposit Account Name Akerman Senterfitt

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-3938.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0
Design	200	100	100	50	130	65	0
Plant	200	100	300	150	160	80	0
Reissue	300	150	500	250	600	300	0
Provisional	200	100	0	0	0	0	0

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)

Small Entity Fee (\$)

Each independent claim over 3 (including Reissues)

50

25

Multiple dependent claims

200

100

**Total Claims****Extra Claims**

Fee (\$)

Fee Paid (\$)

**Multiple Dependent Claims**

Fee (\$)

Fee Paid (\$)

- 20 or MP =

x

=

0

MP = highest number of total claims paid for, if greater than 20.

**Indep. Claims****Extra Claims**

Fee (\$)

Fee Paid (\$)

- 3 or MP =

x

=

0

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

**Total Sheets****Extra Sheets**

Number of each additional 50 or fraction thereof

Fee (\$)

Fee Paid (\$)

- 100 =

/ 50 =

(round up to a whole number) x

0

=

0

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Fee Paid (\$)

0

Other (e.g., late filing surcharge): Patent for Revival of an Application for Patent Abandoned Unintentionally

685

**SUBMITTED BY**

Signature

*Michael C. Cesarano*

Registration No.

31,817

Agent/Agent

Telephone 305-374-5600

Date February 8, 2005

Name (Print/Type)

Michael C. Cesarano

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## PATENTS

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of NETO

Application No. 10/162,321

Group Art Unit 3731

Filed: December 17, 2001

Examiner: Daniel J. Davis

For: Surgical screw for recomposition of human bone structures

## STATEMENTS ESTABLISHING UNINTENTIONAL DELAY

Applicant hereby submits the following statements of Applicant's counsel establishing unintentional delay in filing a Request for Continued Examination.

1. A Final Office Action was mailed to Applicant's former counsel on July 27, 2004.
2. The undersigned attorney was retained to file a Response to the Final Office Action on or about December 21, 2004.
3. Although I was unfamiliar with the prosecution history, I did review the Final Office Action and determined that an amendment appeared to be appropriate to place the application in position for allowance, and would not require a further search or examination.
4. I filed a Response and Amendment After Final on December 23, 2004.
5. An Advisory Action was mailed January 11, 2005, and was received by my office within a few days thereafter. Because of the instance of the Christmas and New Year's holidays, I had not anticipated that an Advisory Action would be prepared and mailed less than three (3) weeks after I had send the Response and Amendment After Final, and did not expect to receive an Office communication on this file in early January.
6. On or about the time the Advisory Action was received, my former secretary left the firm on pregnancy leave, and I was assigned a new secretary who was unfamiliar with my

{M2214159,1}

files and clients, and who was not then familiar with the practices and procedures of the U.S. Patent and Trademark Office.

7. My new secretary did not realize that the date for responding to the Advisory Action was based upon the date of the Final Office Action (July 27, 2004). Although the Advisory Action was placed in my office, I misread the application number, and did not realize that the application would become abandoned in approximately two (2) weeks. As a result, the final date for responding (January 27, 2005) was not docketed. I did not review the contents of the Advisory Action until the deadline for filing the Request for Continued Examination had passed.

8. My failure to respond within six months of the Final Office Action was unintentional. It is my standard procedure to docket incoming patent correspondence as it is received and to have my secretary maintain an independent docket for patent matters. In this case, unusual circumstances combined to cause the Advisory Action not to be docketed. As a result of this event, I have modified my intake procedures to avoid the repetition of an inadvertent failure to docket incoming correspondence from the Office.

Dated: February 8, 2005

  
Michael C. Cesarano  
Reg. No. 31,817

{M2214159.1}